

1 finance, rather, and who have paid for their spectrum? Is
2 that an issue bringing into question the certainty in the
3 marketplace?

4 MR. RATNER: Well, purely from a financial
5 community point of view, that degree of flexibility would be a
6 plus, not a minus. In other words, the fact that a
7 broadcaster would not be restricted to providing one form of
8 service or another, whatever it might be, would enhance the
9 broadcasters ability to finance because, left to his own
10 devices, the broadcaster is going to develop one or more
11 projects that represent in his mind the most profitable use of
12 the spectrum, he will come to us. The fact that there's
13 competition, we can deal with competition and all these
14 markets are becoming more competitive and there's nothing
15 wrong with that but he will have the ability to come to use
16 and say, I'm going to use Channel X for this purpose, will you
17 finance it, and we will have the confidence to know that he
18 has the right to use Channel X for that purpose, more or less
19 in perpetuity, subject to good behavior and so on.

20 COMMISSIONER NESS: Okay, Mr. Grossman, you talked
21 about requiring the auction winners to carry another
22 broadcaster's signal. Wouldn't that prevent the auction
23 winner from broadcasting in HDTV?

24 MR. GROSSMAN: It probably would, unless it was a
25 broadcaster who won, and the reality is that very few

1 | broadcasters would be able to put up the money or would be
2 | willing to put up the money, as Steve suggested, to bid for
3 | that specific purpose. And the real question is, in the free
4 | market place, when consumers, in the end, are making those
5 | decisions and investors are making the decisions and nobody
6 | can predict what's going to happen, I think it's a high
7 | question as to whether you would want to mandate such a
8 | system, rather than let it flow out and then you still have
9 | the 6 MHz on analog that eventually can be dealt with if
10 | everybody decides that HDTV is the way, down the road, when
11 | you have more information.

12 | COMMISSIONER NESS: Certainly you talk about the
13 | ability of choice, but wouldn't it be very difficult if
14 | there's not a critical mass of programming out there for an HD
15 | opportunity to survive, Mr. Grossman?

16 | MR. GROSSMAN: Yes, it would be very difficulty, and
17 | again, that's what the American people and what the investment
18 | community is going to have to sort out and decide. I think
19 | for all of those sort of civic and educational purposes that
20 | you consider to be central, and we all consider to be central,
21 | then you have an alternate way instead of imposing those
22 | requirements on broadcasters as has been traditional, you have
23 | an alternate way to fund them, in the manner that I suggested.

24 | COMMISSIONER NESS: Mr. Lippman, you talk about
25 | having many standards, how, if you were a manufacturer of

1 consumer products, such as a television set, how would you be
2 able to determine what to offer the consumer and would that
3 not, if you had to address many different standards, would
4 that not increase prohibitively the cost of the television
5 set?

6 MR. LIPPMAN: Well, first of all, we already have a
7 plethora of standards out there. Most of the computers that
8 we use in work stations and commercial environments and the
9 ones that are approaching our desktop already sweep out a
10 picture that's clearer than most of the high definition
11 television systems that we've seen today. So the transition
12 to those kinds of scan rates is not difficult, nor is it
13 needlessly expensive, it's rooted in old single-purpose
14 thinking to believe that you have to do it once and you have
15 to do it only one way.

16 The digital electronics that allow you to
17 intermediate between standards are becoming much, much simpler
18 every day and by the time that we have high definition
19 television broadcasts and it's not necessarily obsolete, it's
20 simply not the driver of the transition to digital technology.
21 As those broadcasts emerge, so will our ability to
22 intermediate between them. So it's not an inherently
23 expensive task, it's more like a software task.

24 COMMISSIONER NESS: Mr. Hubbard, finally, in your
25 testimony you mentioned that translators are very important

1 particularly in rural areas, how, for provision of local news,
2 for example, how would we address the issue of local
3 translators the cost of conversion to digital and their
4 carriage in a world of digital television?

5 MR. HUBBARD: Well, there are more than 5,000
6 translators in this country and, of course, that's the
7 lifeline to many, many people for television service. It
8 would seem to me that this once again underlines the need for
9 a long transition period which will allow these local
10 communities who pay for their translators to raise the money
11 and, at some point, switch over. But if you say to them
12 tomorrow morning, you're going to have to be digital, they'll
13 all be off the air, they can't raise the money. They have a
14 terrible time paying their electric bills.

15 COMMISSIONER NESS: I don't think anybody is
16 assuming that we would immediately be seeing --

17 MR. HUBBARD: I'm not assuming it either,
18 Commissioner, I just say that that would be a disaster.

19 COMMISSIONER NESS: Okay, thank you, my time is up.

20 COMMISSIONER HUNDT: Commissioner Chong.

21 COMMISSIONER CHONG: Thank you. I want to follow-up
22 with Mr. Rattner. Mr. Gabbard, in the fourth panel, talks
23 about the costs of converting to digital television for small
24 and medium size broadcasters, and he estimated it was about
25 \$1.8 million to do a conversion to digital excluding the cost

1 of a new tower. And he expressed concern about how
2 broadcasters would be able to obtain financing from the
3 financial community for this conversion. I wanted to know
4 what you thought about that scenario. Do you think small and
5 medium broadcasters would have difficulty obtaining financing
6 for approximately \$1.8 million to convert given the financial
7 situation of broadcasters in that size?

8 MR. RATNER: It's going to be a function of
9 individual circumstance. I agree with Mr. Hubbard, there's no
10 question that the cost of this digital conversion is going to
11 be significant, it's going to be born, as I've said a couple
12 of times now, without any immediate prospect of additional
13 revenues or cash flow and therefore it's going to have to be
14 financed out of existing station operations. So what that
15 means is that a broadcaster who doesn't have \$1.8 million in
16 the bank, is going to go have to borrow it and he's, in
17 effect, going to have to pledge some portion of his existing
18 cash flow to repay that loan over time. If he has no other
19 debt, that probably works and he can probably get that
20 financing. It's not a huge amount even for a smaller
21 station, given the value and cash flows of these. If he's
22 heavily leveraged or otherwise under any financial pressure,
23 it could certainly, at the margin, cause him some problems.

24 COMMISSIONER CHONG: Now, suppose the government
25 conducted an auction of these channels and a smaller medium-

1 sized broadcaster wanted to borrow money to participate in a
2 auction, would a broadcaster have difficulty borrowing that
3 kind of money?

4 MR. RATTNER: It's actually a very similar situation
5 to the one you already asked about, it would be -- assuming
6 the full 6 MHz were auctioned off and they didn't even get one
7 channel for their digital conversion, and they then felt
8 compelled or wanted to buy such a channel, again, without any
9 immediate prospect of additional revenues or cash flow, the
10 cost of that channel, whatever it turns out to be, would have
11 to be financed out of existing cash flow from operations. And
12 the same answer, if they're doing well and they don't have a
13 lot of debt, they presumably could finance it, it would cause
14 them significant pain. If they're not doing well, it could be
15 impossible.

16 COMMISSIONER CHONG: Thank you. Mr. Braun, your
17 fellow panelist's Mr. Grossman, suggested that broadcasters
18 shouldn't have public interest obligations anymore and that
19 broadcasters should buy their channels in an auction and be
20 able to carry whatever they want and then pay fees according
21 to their use of the spectrum. Do you think that broadcasters
22 are amenable to that kind of approach, would they be happy
23 with that?

24 MR. BRAUN: No, not even close. First of all, in
25 response to Mr. Grossman, I'd like to say in terms of the free

1 market idea he's espousing, the consumer would never get a
2 chance to vote with respect to broadcasting HDTV because they
3 don't spend consumer dollars on that, so it would really be
4 the diminution of the market and therefore the loss of
5 advertising revenue which would force the contraction of the
6 broadcasting system, not the consumer's decision that he
7 doesn't want to receive free over-the-air local broadcasting.

8 But, in addition to that, I will tell you, just as
9 good business, the whole so-called affiliate wars of the last
10 year where the networks were all competing for local
11 affiliated stations, it's possible to be misperceived as a
12 fight over VHF band stations, but it's much more than that,
13 it's about stations that have strong local identifies, who
14 have news franchises, who have a relationship with their
15 community that brings audience to the television set because
16 that's good business for us. It's a great promotional
17 platform to tell them what's going to be on when the network
18 time periods come. So more than just having affiliates with
19 strong VHF signals, the long-term viability of local news is
20 critical to the networks.

21 COMMISSIONER CHONG: Mr. Grebow, you were contending
22 that the Commission should encourage broadcasters within
23 constitutional limits to offer a minimum amount of HD content
24 and I was wondering what exactly you meant by that, what
25 constitutional limits were you talking about, and I presume --

1 I mean, are you saying that we ought to have a minimum or that
2 we shouldn't have a minimum, and if we did have a minimum,
3 what would that minimum be, a quantitative kind of minimum or
4 some other kind of time of day minimum?

5 MR. GREBOW: We believe that the Commission does not
6 require some minimum content of HD, that HD will not happen
7 and that if the Commission believes, as we do, that HD is
8 important, then it is going to have to require it. Now, there
9 are constitutional issues that have been raised that I'm not
10 in a position to address, but the Commission needs to decide
11 if it believes that HD is something that American consumers
12 want, and if it's a public policy important imperative. If it
13 is, we believe that some reasonable number should be required.
14 There is no magic number, some proponents have suggested five
15 hours per week, that's probably sufficient. Remember, it's
16 requiring any HD that forces broadcasters to make the
17 investment, so the importance is to require the first hour,
18 really.

19 COMMISSIONER CHONG: How tough would it be to
20 deliver five hours a week, Mr. Braun?

21 MR. BRAUN: Well, NBC has gone on the record as
22 saying we would support that minimum mandatory requirement so
23 -- that's based on the belief that it's going to be critical
24 to our competitive stance. So however tough it is, we believe
25 we have to do it.

1 COMMISSIONER CHONG: Well, let's ask the cable guy.
2 Mr. Hendricks, cable, are going to be doing HDTV, broadcasters
3 say that they have to be competitive, are you guys going to do
4 it?

5 MR. HENDRICKS: Yes, I think that you'll see high
6 definition television as something that's on the cable menu,
7 you know, three to six years from now. You know, I'm
8 supportive of the broadcaster having 12 MHz to play with so
9 that they can be competitive in being able to multiplex their
10 services as well as be in a position to offer high definition
11 television.

12 COMMISSIONER CHONG: Now, it's my understanding
13 cable's upgrading their system to do precisely that, isn't
14 that true?

15 MR. HENDRICKS: Yes, cable's upgrading its systems
16 to provide additional capacity, and again, it'll take a long
17 time to digitize the entire system, but we should have five to
18 ten additional channels within about three to four years.

19 COMMISSIONER CHONG: Thank you, I think my time's
20 up, Mr. Chairman.

21 COMMISSIONER HUNDT: Thank you. Mr. Hubbard, you
22 have the capability to choose to transmit in the format called
23 high definition right now, isn't that right?

24 MR. HUBBARD: With our direct blockade satellite
25 system, yes, sir, we do.

1 COMMISSIONER HUNDT: And you're not doing that, is
2 that correct?

3 MR. HUBBARD: Well, no, we're not doing it.

4 COMMISSIONER HUNDT: You're not doing that because
5 you don't know of anyone who could watch it?

6 MR. HUBBARD: Well, who would -- there's no one that
7 can watch it, that's the very primary reason.

8 COMMISSIONER HUNDT: So that's a case of relying on
9 the market to make these decisions instead of asking the FCC
10 to order you to broadcast in one particular format?

11 MR. HUBBARD: Yes, it is.

12 COMMISSIONER HUNDT: Mr. Hendricks, the cable
13 industry is deploying boxes of the digital conversion, that's
14 right, isn't it?

15 MR. HENDRICKS: That's correct.

16 COMMISSIONER HUNDT: These boxes will take a digital
17 signal over the cable hookup and will translate it to an
18 analog picture so I can watch it on the TV that I already
19 have, isn't that right?

20 MR. HENDRICKS: That's correct. You will get a
21 hybrid transmission from the cable head-in of analog which
22 would be the bulk of the signal, and then a portion of the
23 spectrum would be digital and that's what your box would
24 decode.

25 COMMISSIONER HUNDT: In generalizing about the cable

1 industry which includes many different players, does it appear
2 right now to be the cable industries business strategy to
3 deploy these digital down converter boxes to all of the cable
4 subscribers?

5 MR. HENDRICKS: No, because of the costs of the
6 equipment, we think that most often it would be the cable
7 operator would be advertising that the new convertor boxes are
8 available, the new content services would be advertised and
9 those consumers who were interested in paying for the new
10 services would get the new boxes.

11 COMMISSIONER HUNDT: Do I understand you to be
12 saying that cable's thought is that consumers will be making
13 the decision to spend the money on the digital convertor based
14 on the notion that they can get some new content?

15 MR. HENDRICKS: Well, you have to understand, I
16 think a large segment of cable consumers feel that they are
17 television saturated. There are some consumers, though, that
18 want more services, movies on demand, and it will be those
19 consumers we think that would readily respond to new
20 offerings.

21 COMMISSIONER HUNDT: And what the digital revolution
22 does for cable is it gives cable the opportunity to offer more
23 channels and more content, correct?

24 MR. HENDRICKS: Yes, what digital offers both cable
25 and broadcaster is additional capacity.

1 COMMISSIONER HUNDT: Additional capacity to deliver
2 more programs, right?

3 MR. HENDRICKS: That's correct.

4 COMMISSIONER HUNDT: Now, this digital down
5 convertor box that I might choose to subscribe to will display
6 the picture on my analog TV, right?

7 MR. HENDRICKS: That's correct.

8 COMMISSIONER HUNDT: So, I will not get, because of
9 the limitations of my television, I will not get the kind of
10 resolution that a high definition picture coupled with an
11 appropriate receiver might give me?

12 MR. HENDRICKS: That's correct --

13 COMMISSIONER HUNDT: So, in other words --

14 MR. HENDRICKS: But the cable industry will have to
15 wait until high definition television is first feeded by the
16 broadcast industry to be able to make use of the new sets.

17 COMMISSIONER HUNDT: So, in other words, the cable
18 industry won't have any business plan to deliver a high
19 definition format unless and until some other industry finds a
20 way to convince customers to buy a receiver that will actually
21 display with appropriate resolution the high definition image.

22 MR. HENDRICKS: Yes, that's why I think it's some
23 three to four to five years out.

24 COMMISSIONER HUNDT: Meanwhile, Mr. Rattner is
25 saying it's never going to be out unless we order the

1 | broadcasters to deliver a high definition picture. Isn't that
2 | what you were hear him saying?

3 | MR. HENDRICKS: Yes.

4 | COMMISSIONER HUNDT: And you hear Mr. Braun saying
5 | the same thing and Mr. Grebow saying the same thing, right?

6 | MR. HENDRICKS: That's correct.

7 | COMMISSIONER HUNDT: In other words, the view seems
8 | to be that unless the FCC interferes with the market, there
9 | isn't going to be a substantial number of people who are going
10 | to buy the receivers that are appropriate for high definition,
11 | but, in fact, we can't order anyone to buy that kind of home
12 | theater, can we?

13 | MR. HENDRICKS: I don't think so.

14 | COMMISSIONER HUNDT: We don't have -- our powers are
15 | limited, they're limited no matter what we may think, they're
16 | limited in some respects, aren't they?

17 | MR. HENDRICKS: That's correct.

18 | COMMISSIONER HUNDT: Mr. Lippman, do you see any
19 | public policy reason for us to interfere with the market so as
20 | to try to promote a particular format, bits are bits, aren't
21 | they?

22 | MR. LIPPMAN: It's been said by others on this panel
23 | and I certainly agree. I don't agree that without your
24 | forcing people to transmit HDTV pictures will never have high
25 | definition television. The natural evolution --

1 COMMISSIONER HUNDT: You mean, it just might happen
2 in the marketplace?

3 MR. LIPPMAN: It not only might happen in the
4 marketplace, but it's unavoidable in a smooth and seamless way
5 through the pure evolution of the screens that we have in our
6 living rooms and on our desks without any CD necessary and by
7 the time those TV sets, as you might call them at that time,
8 defuse through the marketplace, the investment hurdles might
9 be ever so much smaller to overcome and even Mr. Rattner would
10 care to invest.

11 COMMISSIONER HUNDT: But this smooth and seamless
12 evolution that you're talking about would be one driven by
13 consumers and the marketplace as opposed to the government,
14 isn't that right?

15 MR. LIPPMAN: Yes, and the access to the digital
16 networks that you could provide in the UHF band.

17 COMMISSIONER HUNDT: Mr. Rattner, if we auctioned
18 the digital spectrum, presumably someone would pay something
19 for it, you agree with that, don't you?

20 MR. RATTNER: I agree.

21 COMMISSIONER HUNDT: And presumably it would be
22 people who saw that they could make a profit using that
23 spectrum, right?

24 MR. RATTNER: Presumably.

25 COMMISSIONER HUNDT: Now, if we give the digital

1 spectrum to a current broadcast licensee who doesn't have the
2 financial resources to develop it, what logically is that
3 particular licensee going to do with the spectrum?

4 MR. RATTNER: If he can't develop it, depending on
5 the rules, he'll turn it back or he'll sell it as the rules
6 permit.

7 COMMISSIONER HUNDT: Do you think we should prohibit
8 the analog broadcast licensee who might receive the digital
9 spectrum license, should we prohibit them from transferring
10 the digital license?

11 MR. RATTNER: Well, that's a long and broad
12 question. Let me say this, I think that if you --

13 COMMISSIONER HUNDT: I thought that was a yes or no
14 question.

15 MR. RATTNER: I know, but unfortunately it's not a
16 yes or no answer, so I'm going to give you a slightly
17 different answer. If you -- I don't believe that the problem
18 of broadcasters being unable to develop the digital spectrum
19 is a substantial one. In other words, I think if you give the
20 digital spectrum to broadcasters, I'm not saying whether
21 that's right or wrong, but if you decide to do that, with
22 little or no restrictions as to how they use it, then, I
23 believe, they will find a way to use it and get finance
24 because we will finance them.

25 COMMISSIONER HUNDT: Should we prohibit them from

1 transferring the digital broadcast license? Should we make it
2 unsellable for 15 years?

3 MR. RATTNER: It's a public policy question, it
4 really depends on --

5 COMMISSIONER HUNDT: Do you see any public policy
6 reason to interfere with the marketplace? Normally, in the
7 market, you'd allow them to transfer property.

8 MR. RATTNER: Normally in the market you would allow
9 them to transfer. I think, in this particular case, there is
10 certainly a significant public policy issue over whether you
11 should give broadcasters a full additional 6 MHz and tell them
12 to use it for anything they want regardless and it's theirs
13 forever. In other words, it is not obvious to me that you
14 should give broadcasters six more MHz and let's assume that
15 they all wanted to go into cellular phones or data
16 transmission, and that they should get that for free and they
17 should have the right to have it in perpetuity. That's not
18 obvious to me, that's a public policy question.

19 COMMISSIONER HUNDT: Because it might be too much of
20 a gift?

21 MR. RATTNER: Yes, that's not part of the deal going
22 in.

23 COMMISSIONER HUNDT: All right. Commissioner
24 Quello.

25 COMMISSIONER QUELLO: I have kind of a hypothetical

1 question for say Mr. Braun, Hubbard, some of those in
2 broadcasting. Say that Congress and the FCC decides that you
3 have to pay for the digital and for the HDTV in an auction.
4 Does broadcast have any plans once you pay for it and you --
5 that's a big bite, I mean, you're going to have to pay for the
6 transmitter, your transmitting simulcasting to people that
7 don't have very many receivers, yet it's going to be a long
8 evolutionary process, has there been any planning at all, and
9 I'm putting on my old broadcast has now, of maybe providing a
10 hybrid service similar to cable where you would all of a
11 sudden, if you're going to pay for the auction, you're going
12 to have a pay service and let people pay for, let's say,
13 football, baseball, basketball, hockey, the best movies, the
14 soap operas, the best news in the world so that you could --
15 all of a sudden you go from free TV to a pay service TV and
16 you're sitting now on still the most attractive programming,
17 any plans for doing that? Has that come up in anyone's mind
18 on how you're going to do it you have to pay an exorbitant
19 price for an auction and wouldn't that be pretty much the end
20 of free over-the-air TV? I've said that before, I think we'd
21 be developing a nation of have and havenots. But if I'm going
22 to pay for the auction, I want to be able to finance it and I
23 think, if I have that kind of a proposition, it should be very
24 attractive to Mr. Rattner and all the other people that
25 actually invest money.

1 MR. BRAUN: I'd like to address that, Commissioner.
2 Actually, I had a conversation on that topic just yesterday.
3 Later today NBC is going to be making an announcement about an
4 acquisition of rights far out into the future and of a major
5 event of public interest that's traditionally always been
6 carried on free over-the-air television, and precisely because
7 of the uncertainty that we're discussing today, I discussed
8 with the people negotiating that arrangement to please
9 preserve the flexibility to be able to do whatever is
10 necessary in an economic climate where we can't reach a
11 universal audience in the kind of picture and sound that
12 they're used to. Meaning, in fact, that we would charge -- in
13 fact, have the right to be able to charge for certain types of
14 program, this particular program, in fact, over time, if we
15 couldn't make money on it by delivering it free over-the-air.
16 We have to hedge that bet.

17 COMMISSIONER QUELLO: I think there's a general
18 feeling that broadcasters are entitled to a channel only for
19 broadcast purposes, not for cellular and paging and all the
20 other things that might be very profitable.

21 MR. BRAUN: Right.

22 COMMISSIONER QUELLO: So I was just thinking if
23 ahead, if you're going to get a broadcast channel, how are you
24 going to pay for it?

25 MR. BRAUN: Well --

1 MR. HUBBARD: May I respond also?

2 COMMISSIONER QUELLO: Sure.

3 MR. HUBBARD: I can't envision any broadcaster being
4 so foolish as to try and charge for their broadcast services.
5 And I can't imagine a Commission allowing that. The very
6 purpose for our licenses and for our being is to be good
7 public servants and provide a free over-the-air service, and
8 I, for one, reject the concept of a broadcaster charging for
9 services. And, if I might also add, if it were to be an
10 auction situation, I don't think very many broadcasters,
11 Steve, would be able to win that auction. You'd have AT&T or
12 USWest or whoever coming in and winning the auction, the
13 prices would be so high that it would then become a pay
14 service. That would be the end of free over-the-air, in my
15 opinion.

16 COMMISSIONER QUELLO: So it's, if you go auction,
17 why it's going to be a pay service, but you can't visualize
18 broadcast every being pay service? Of course, most of us
19 don't want broadcast to be a pay service, either.

20 MR. HUBBARD: I don't either, Mr. Quello.

21 COMMISSIONER QUELLO: We owe that service to the
22 public.

23 MR. HUBBARD: What I'm saying is if there were an
24 auction situation, I think that the market price for the
25 spectrum would be so high that broadcasters would be out of

1 business and then new people would have that spectrum and they
2 would charge because they had paid so much, and that'd be the
3 only way they could recover.

4 COMMISSIONER QUELLO: All right, thank you. Have
5 you got something, Larry?

6 MR. GROSSMAN: I just wanted to -- I certainly agree
7 with that and that's why I would suggest that if there were an
8 auction situation that you do reserve at least enough spectrum
9 for a digital channel for any television broadcaster who wants
10 to use it, so you can have the best of both worlds, in a
11 sense.

12 COMMISSIONER CHONG: Does that include the community
13 broadcasters?

14 MR. GROSSMAN: I beg your pardon?

15 COMMISSIONER CHONG: I'm sorry, Jim, this is your
16 time.

17 COMMISSIONER QUELLO: Community broadcasters, yes --

18 COMMISSIONER CHONG: Oh, I'm sorry.

19 COMMISSIONER QUELLO: I've just have one more
20 question for Mr. Wiley. Do you respond to Mr. Lippman's
21 argument that there are standards already out there and
22 therefore no need to mandate HDTV?

23 MR. WILEY: Well, I'm not comfortable with mandating
24 certain programming requirements, but I do think it's
25 essential to set a standard. I think to insure efficient use

1 of the ATV spectrum, to give the public certainty to get the
2 service quickly, I think the Commission needs to act and I
3 think it's especially so, and going back to some comments that
4 the chairman asked or the questions he asked, I think the ATV
5 spectrum, after all, is going to be shared, sharing
6 interspersed channels with the NTSC operations and I think
7 you've got to look to having an efficient use of that
8 spectrum. And the nice thing about it is, there really isn't
9 any need for the Commission to do anymore work in this area.
10 The standard had been fully documented, thanks to Mr.
11 McKinney's organization's excellent work. I think there's a
12 questionable precedent here to simply depart after the
13 Commission has said to people, spend hundreds of thousands of
14 hours and millions of dollars to develop this, and then walk
15 away from setting a standard. I think that'd be most
16 unfortunate.

17 COMMISSIONER QUELLO: All right.

18 COMMISSIONER BARRETT: Mr. Hubbard, you said that
19 broadcasters should not be able to do what with the
20 allocations?

21 MR. HUBBARD: Charge for the services they now
22 provide for free.

23 COMMISSIONER BARRETT: If you take a look at the
24 progressive scanning model which is more compatible with
25 computers and you look at the interlaced scanning model which

1 is compatible for higher resolution and you consider the fact
2 that the Grand Alliance can do both, would you have a problem
3 with people using any of that spectrum for data transmission
4 or anything like that?

5 MR. HUBBARD: No, as long as it accompanies the
6 broadcast service, and I think that broadcasters --

7 COMMISSIONER BARRETT: What are they -- charge for
8 those services?

9 MR. HUBBARD: I'm going to get shot by friends in
10 broadcasting, probably, but I don't think they should be able
11 to charge for it.

12 COMMISSIONER BARRETT: So, you don't believe in
13 flexible use for the channel.

14 MR. HUBBARD: Yes, I do. Yes, sir, I do, I think --
15 I believe in the use of any auxiliary channel in coordination
16 with the main broadcast channel.

17 COMMISSIONER BARRETT: How they then now make that
18 attractive to Mr. Rattner's clients, if, in fact, I'm going to
19 limit what they do under the Grand Alliance concept which can
20 handle both of -- the progressive scanning and the interface
21 scanning process?

22 MR. HUBBARD: Broadcasters have a long history, Mr.
23 Barrett, of always trying to give the public the best possible
24 service, how to improve their picture, how to improve their
25 news, how to improve everything. If you give it enough time

1 to transition, I think every station in the United States will
2 go digital and will give the best possible service without
3 having to charge for that service. Without free service we're
4 out of business. There's no point in having broadcasting.

5 COMMISSIONER BARRETT: If we mandate some portion is
6 to be used for broadcast purposes and then, in turn, can,
7 under some concept, bid to Grand Alliance which can do both of
8 the models, and they can provide data services, other
9 services, that are compatible with computers and the high
10 resolution aspect and they can charge for that, do you have a
11 problem with that?

12 MR. HUBBARD: No, I don't, but I also -- and this
13 again, I'm a heretic, but I think that if -- what we get -- we
14 have a broadcast channel which we have that because we
15 developed it, we took the risk and I think to say that we're
16 going to charge for the services without us paying something
17 for the use of that particular service, I think is a mistake.

18 COMMISSIONER BARRETT: Is that attractive, Steve,
19 if, in fact, we limit the use for ancillary programs in
20 addition to the broadcast aspect?

21 MR. RATTNER: Clearly to the extent you limit the
22 use of the spectrum and decrease flexibility, it becomes less
23 attractive to Wall Street as something to finance.

24 COMMISSIONER BARRETT: Neil, you're biting at the
25 chops.

1 MR. BRAUN: Well, the -- I agree with Stanley except
2 for one thing, if, in order to compete in broadcasting in a
3 competitive environment, we need to be able to have 6 MHz for
4 HDTV transmission. If you preserve flexibility and we use it
5 for pay services, we believe it's appropriate for you to make
6 different rules for subscription services using that spectrum
7 as opposed to free over-the-air.

8 COMMISSIONER BARRETT: Well, what rules do we make
9 if, in fact, we're getting what we want at a minimum or a
10 maximum requirement that we have suggested that they do in
11 terms of a broadcasting perspective?

12 MR. BRAUN: I'm not sure I followed --

13 COMMISSIONER BARRETT: If, in fact, we get what we
14 want for use of that free channel, if I may, of the spectrum,
15 and we get that and you're able to do other things that are
16 compatible with the usage of that spectrum, what difference
17 does it make that I put rules down to limit you in terms of
18 data transmission and things like that?

19 MR. BRAUN: I'm simply making the point that what
20 broadcasters are by and large arguing for is the ability to
21 compete and we need the 6 MHz for that. But we don't need it
22 100 percent of the time. If we use it for things that
23 generate a new revenue stream from subscribers, that should be
24 subject to different rules and paying for value in that case.

25 COMMISSIONER BARRETT: Why should it be when I'm

1 getting what I want for what I've given you the allocation
2 for, why should I then set a rule for what you can do when
3 you're not using it for 100 percent of what I allocated it
4 for? Why should the government be involved in that? If I'm
5 getting what I want from you as a matter of public vision --

6 MR. BRAUN: Right.

7 COMMISSIONER BARRETT: -- and I think the Chairman
8 has put it before us more profoundly than anyone, if I'm
9 getting that, even if it's the children's television stuff you
10 had suggested, if I'm getting all of what I want and you have
11 other time usages, and you want to use that flexibility, why
12 should I determine what you should use it for and why should
13 there be different rules for that flexibility?

14 MR. BRAUN: I'm just acknowledging a distinction
15 between those free over-the-air services that are totally
16 supported by advertising and those which ask consumers to take
17 money out of their pocket. I don't know there's a public
18 policy interested in charging us, as long as you're getting
19 what you want, you're right, there may be no public policy
20 interest in charging us beyond that.

21 COMMISSIONER BARRETT: Let me say this, let's assume
22 that Congress says that we need -- you need to have 3-1/2
23 hours of children's television. And let's assume that we
24 implement that and let's assume that one suggests that you
25 need "X" number of hours of educational programming, if I'm